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**MISCELLANY.**

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**Virginia Board of Law Examiners.  
Richmond, Va., December 9, 1914.**

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**FIRST DAY—SECTION ONE.**

1. How far is the common law of England in full force within this State and the rule of decision?

2. In an action for libel or slander, can the truth of the defamatory words be proven under the general issue?

3. Up to what time can a plaintiff in an action at law amend his declaration as of right?

4. On demurrer, what defects in a declaration or pleadings are not to be regarded?

5. A is charged with a felony; before his arraignment his counsel moves the court for a continuance while A is not present in court: Can the continuance be granted?

6. A is charged with a felony, is indicted therefor and arraigned. Subsequently his counsel moves the court for a continuance while A is not present in court: Can the continuance be granted?

7. From what interlocutory decrees in chancery can an appeal be taken?

8. The Court of Appeals of Virginia has before it an appeal in a chancery cause, and a writ of error in a suit at law in which the evidence has been certified. What is the difference in the consideration of the evidence in these two cases by the court?

9. Are adultery and fornication common law or statutory offenses?

10. Define the crime of arson under the statute of Virginia, and give the punishment prescribed by the statute?

11. What will mitigate the punishment for arson, and to what extent?

12. At the January term, 1914, of the Corporation Court of Danville, Virginia, A recovers a judgment against B for the sum of \$500.00. On the 20th day of January, 1914, execution issues on this judgment returnable to the first Monday in April (First April Rules), and is placed in the hands of the City Sergeant at once. B is in the employment of D, who has agreed to pay him \$100.00 per month for his services on the first day of each month. A finds this out and on the 20th day of February issues a suggestion against B and D, garnisheeing the amount due by D to B. This garnishment is returnable to July term, 1914, of said Corporation Court. The garnishment is duly served on B and D. At the July term, 1914, D appears in court and answers that he is indebted to B in the sum of \$600.00 wages for the months of January, February, March, April, May and June. B is a laboring man and householder. How much of the sum

of \$600.00 due B by D is liable to be subjected to the payment of A's judgment and execution against B, and why?

13. A claims his exemption as householder and head of a family in personal property valued at \$1,500.00 and in a house and lot valued at \$500.00. He consumes and uses up the whole of the personal property so set apart as his exemption and then acquires other personal property worth \$1,200.00. His creditors seek to subject this property to their debts, and he claims it as exempt. Can the creditors subject it to their debts?

14. A holds the bond of B for \$500.00. A then sets apart the bond of B as a part of his exemption as a householder and head of a family. C has a debt against A evidenced by a note which does not waive A's exemption. C obtains judgment on the note against A and issues execution on his judgment. A then transfers and assigns B's bond to D as collateral security. At the time of such assignment D knows of C's execution against A. C then claims the right to subject the debt due by B to his execution: Can he do it?

15. In What civil proceedings are husband and wife incompetent to testify for or against each other?

16. Should an attorney appear as a witness for his client?

#### FIRST DAY—SECTION TWO.

1. What is a tort?

2. Is a person liable in damages for torts committed by him while insane?

3. A gets into a quarrel with B and during the quarrel calls B a "damned lying scoundrel." B strikes A and knocks him down and beats him, inflicting serious injuries upon him. In a suit by A against B to recover damages for the injuries inflicted, can the insulting language be proved to justify the assault, and as a bar to the recovery?

4. If the insulting language can be proved in case stated in the foregoing question for what purpose can it be proved?

5. A's hogs break through the fence of B and damage B's crop and while doing such damage to B's crop on B's land, B shoots and kills A's hogs. Can A recover of B for killing his hogs?

6. When, if at all, does a check operate as an assignment of the funds to the credit of the drawer?

7. When, if at all, will a holder of a check have a right of action against the bank on which it is drawn?

8. What is the effect as to drawer and endorsers when the holder of the check procures it to be certified or accepted by the bank on which it is drawn?

9. What is the effect as to the drawer of a check, when the drawer on his own account procures the check to be certified or accepted by the bank on which it is drawn, and then delivers it to the payee?

10. What is a contract?

11. What is necessary to pass title to personalty by gift *inter vivos*?

12. A husband collects and uses money belonging to his wife with her knowledge and consent, and then dies. What right, if any, has she to demand payment of husband's estate?

13. A husband is trustee for wife, and holds as trustee a debt due her, and he alone has authority to collect it; he collects and uses the money and then dies; what right, if any, has the wife to demand payment of husband's estate; and what preference, if any, would she have over other general creditors of the deceased husband, in the distribution of his estate?

14. In an action at law by vendor against purchaser to recover damages for breach of contract for the sale of growing trees, what is the measure of damages for breach of contract for sale and delivery of such trees?

15. Where an entire business is placed under the management of an agent what are his powers?

16. An agent having full authority to sell an article at a particular price, offers the article at that price, and the offer is accepted unconditionally. Has the principal to confirm the sale to complete it?

#### SECOND DAY—SECTION THREE.

1. Does equity give any new right?

2. In what cases has a court of equity jurisdiction where the remedy at law is full and complete?

3. N, in the year 1880, gives his son, C. H., a tract of land but makes him no deed to it. C. H. is put in possession at the time of the gift, and thereafter places valuable improvements on the land and exercises exclusive ownership over it until his father's death; what right did he have to said tract of land?

4. N, in the year 1890, gives to his son F. L., a tract of land, but makes no deed to it; F. L. is put in possession at the time of the gift, and thereafter makes valuable improvements on it, and exercises exclusive ownership over it until his father's death: What right did F. L. have to said tract of land?

5. A sells to B a lot of land for \$10,000.00, receiving \$2,000.00 in cash and four bonds for \$2,000.00 each, payable in one, two, three and four years respectively. A conveys B the land, reserving a vendor's lien to secure the unpaid purchase money evidenced by the four bonds; A then assigns to C for value the bond payable at four years; subsequently A assigns to D the bond payable at three years. B makes default in paying all of the bonds; and suit is brought to enforce the vendor's lien. The land when sold brings only \$3,000.00 owing to destruction of improvements thereon. How will the fund be distributed between the several holders of the bonds?

6. A owns and cultivates a tract of land and on June 1, 1914, sells and conveys said tract of land to B: What crops growing on the land pass to B?

7. (a) What is a fixture?

(b) What is the true criterion of a fixture?

8. When is real estate held by partners treated as personalty?

9. A and B are partners, and as such are heavily indebted: C buys out A's interest in firm and then forms a new partnership with B: Is C liable for the partnership debts of the old firm composed of A and B?

10. C T and F agree to form a partnership to conduct the business of wholesale grocers under the style of C & T; C goes to the bank and informs the cashier that he and T propose to form a partnership and that he wishes to borrow \$5,000.00 to pay his part of the input of the capital of the firm; he does not inform the cashier that F is to be a partner; C makes his note for \$5,000.00, payable to T and T endorses it; the note is discounted and proceeds placed to credit of C; subsequently the partnership is formed, and the proceeds of the note are checked out by C and placed to the credit of firm under the style of C & T. T dies, and the firm is dissolved, and C sells out his interest to F; C's note to the bank not being paid, the bank sues F as a dormant partner in the firm of C & T to recover amount of note. Is F liable? If liable, why? If not liable, why?

11. Can an administrator *de bonis non* sue the administrator or executor of the first administrator or executor for assets wasted or converted by such first executor or administrator?

12. Testator, a farmer, gives the residuum of his estate, real and personal, to his wife, for life, and after her death gives the same, as well the land as all of the personalty remaining at her death to D and wife; and appoints D and testator's wife his executor and executrix and directs that no appraisement be made of his estate; the residuum consisted of land, slaves, live stock, furniture, farming implements, crops of grain on hand, money and debts due; the testator's wife takes and holds in kind during her life the slaves, live stock, furniture and farming utensils, and she takes the whole of the crops on hand and appropriates them to her own use. After her death, for what part of the personal property is her estate chargeable?

13. When a will is offered for probate upon whom is the burden to prove at the time will was executed the testator was of sound mind, and authorized under the statute to make a will?

14. In a suit to set aside a will already probated, upon whom is the burden of proof as to the incapacity of the testator and the want of due and proper execution of the will?

15. What is the presumption as to the testamentary capacity where the will is wholly in the handwriting of the testator?

16. A tract of land is deeded to a married woman by her father in 1902: in 1910 she sells and conveys this land to A; the deed to A is signed and acknowledged by the married woman and duly re-

corded; her husband does not sign the deed. What estate does A get in this land?

SECOND DAY—SECTION FOUR.

1. In deciding an appeal or writ of error in the Supreme Court of Appeals of Virginia when is the assent of three judges of that court necessary?

2. In all criminal prosecutions a man hath a right "To a speedy trial by an impartial jury of his vicinage." (Constitution of Virginia (1902), Article 1, Sec. 8.) What is meant by a speedy trial?

3. Are statutes of a State which validate contracts otherwise invalid, within the prohibition of the Constitution of the United States prohibiting any State from passing "Any law impairing the obligation of a contract?"

4. The City of Richmond assesses a license tax on all lawyers practicing within the city but graduates the tax according to the length of time the lawyer has been practicing his profession, and according to the amount of his income from his practice, so that some lawyers will pay more or less license tax than others: In this assessment repugnant to Section 168 of the Constitution of Virginia, 1902, prescribing uniformity of taxation?

5. A takes out a policy of insurance payable to M, his wife; M dies in his lifetime; upon the death of A to whom does the amount due on the policy fall?

6. A takes out a policy of insurance on his life, payable to M, his wife, and in case of her death in his lifetime to his children; the wife M dies. A keeps up the insurance, but becomes financially embarrassed; he has a number of children, some of whom are infants; he desires to surrender the policy and takes its cash surrender value; can this be done so as to release the company on its contract?

7. When may a corporation enter into contracts and undertakings which are not strictly within its express powers?

8. In the case where the directors of a bank have negligently managed the affairs of a bank so as to render it insolvent, who has a right to sue the directors to recover the damages caused by their negligence?

9. A is the owner of stock in a corporation and pledges it to B; the stock still stands in the name of A on the books of the corporation; who has the right to vote this stock in a meeting of the stockholders of the corporation?

10. Can the stockholders of a corporation by subsequent ratification validate an act of the directors of the corporation which was illegal and void at the time it was done?

11. Can the State Corporation Commission require one railroad company to grant the use of its tracks and other terminal facilities to another railroad company engaged in a like business?

12. To what does the power given, and the duties imposed upon the State Corporation Commission by the State Constitution as to transportation and transmission companies refer?

13. At what place does the breach of duty of a common carrier to deliver goods in good condition take place?

14. Is a contract with a common carrier limiting its liability to a sum less than the actual value of the article shipped, in consideration of a reduced rate, a valid and binding contract?

15. A delivers to B, a miller, one hundred bushels of wheat, the flour and bran made therefrom less legal toll to be delivered to A; is this a bailment or sale?

16. A delivers to B, a miller, one hundred bushels of wheat for which B is to deliver to A 21 barrels of flour made from any wheat he has; is this a bailment or sale?

#### Successful Applicants.

|                              |                  |
|------------------------------|------------------|
| Beale, Cyrus W.....          | Richmond.        |
| Clark, C. G.....             | Richmond.        |
| Crush, Charles W.....        | Christiansburg.  |
| Davis, Walter L.....         | Norfolk.         |
| Finnegan, M. G.....          | Richmond.        |
| Haden, Benjamin, Jr.....     | Fincastle.       |
| Hall, J. H., Jr.....         | Portsmouth.      |
| Higgins, William Taylor..... | Lexington.       |
| Hopkins, Walter Lee.....     | Richmond.        |
| Hundley, J. J.....           | Rocky Mount.     |
| Jackson, Harry S.....        | Portsmouth.      |
| Lacy, James H., Jr.....      | Charlottesville. |
| Laughon, W. Guy.....         | Pulaski.         |
| Leary, Earnest W.....        | Richmond.        |
| Levy, Maxwell Lewis.....     | Norfolk.         |
| Lloyd, Holt Sands.....       | Richmond.        |
| Moss, Thomas O., Jr.....     | Beaver Dam.      |
| Newlin, Joseph B.....        | Winchester.      |
| Reid, Jacob L.....           | Portsmouth.      |
| Saunders, Peter .....        | Rocky Mount.     |
| Spencer, Sidney .....        | Charlottesville. |
| Smith, Charles Henry.....    | Oldhams.         |
| White, Fred H.....           | Falls Church.    |
| Wicker, John J., Jr.....     | Richmond.        |
| Williams, Martin, Jr.....    | Pearisburg.      |
| Willis, Berry D.....         | Rayville, La.    |
| Winfrey, D. B.....           | Portsmouth.      |
| Woolf, Andrew .....          | Keyser, W. Va.   |

Twenty-eight applicants out of seventy-one passed the examination, the percentage being 39.4 per cent.